

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No.569 of 2022

**Sri Sajal Kumar Das and 35 Ors.**

**....Petitioner(s)**

**Versus**

**The Asset Manager, ONGC and 2 Ors.**

**....Respondent(s)**

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For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. S. Bhattacharjee, Advocate
For the Respondent(s)	:	Mr. Soumen Saha, Advocate Mr. K. Deb, Advocate

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**HON'BLE MR. JUSTICE ARINDAM LODH**

**Order**

**29/09/2023**

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioners. Also heard Mr. Soumen Saha, learned counsel appearing for respondents no.1 and 2 and Mr. K. Deb, learned counsel appearing for respondent no.3.

Briefly stated, all the petitioners herein are the drivers of the vehicles running under a contract between their employer-contractor and the ONGCL, the respondents no.1 and 2 herein. The drivers of the vehicles have filed the instant writ petition claiming to pay them fair wages, which according to them, are not being paid by the contractor, the respondent no.3 herein.

At the time of hearing, this Court has raised the question of maintainability of the present writ petition. According to this Court, the petitioners before asking this Court to invoke its writ jurisdiction, should have approached the appropriate forum, that is, the Industrial Tribunal or the Labour Court.

In reply to that, Mr. P. Roy Barman, learned senior counsel for the petitioners has submitted that alternative remedy is not a bar to entertain an application under Article 226 of the Constitution of India when the matters are admitted.

I have considered the submission of learned counsel appearing for the parties.

It is admitted that there is alternative remedy under the Statute. Wages cannot be determined by a writ court. It is to be determined firstly by a Labour Commissioner, if aggrieved, such aggrieved persons may approach the Industrial Tribunal or Labour Court. Section 20 of the Minimum Wages Act, 1948 clearly stipulates that:

***“Section 20: Claim: (1) The appropriate Government may, by notification in the Official Gazette, appoint any Commissioner for Workmen’s Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14, to employees employed or paid in that area.”***

The wages of an employee constitute different heads, which is not possible to determine by this Court in exercise of its discretionary and extraordinary jurisdiction under Article 226 of the Constitution of India. The rate of overtime allowance, the counting of holidays, etc. – are the factors to be determined by the Labour Commissioner or by an authorized tribunal under the Statute.

In view of this, I do not find any ground to entertain the present writ petition. Accordingly, the instant writ petition stands dismissed being not maintainable. The remedy of the petitioners lies elsewhere.

**JUDGE**

*Snigdha*

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GHOSH

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